



REPORT # 11

TENDER AWARD PRESENTATION SYSTEMS AND UPDATE: LEOVIC ARTS & ENTERTAINMENT CENTRE, NINETEEN ON THE PARK (F18)

Report Prepared By: Director of Leisure Services and
Manager of Culture and Museum Services

RECOMMENDATION:

The Director of Leisure Services and Manager of Culture and Museum Services recommend:

- 1) **THAT the Tender for the supply and installation of Presentation Systems be awarded to Westbury National;**
- 2) **AND THAT the hydro servicing of the building and Civic Square be approved as a separate project in the 2009 Capital Budget funded from the Hydro Reserve;**
- 3) **AND THAT staff be authorized to include the North Balcony enclosure and revised contingency into the project and report back in 2009 as part of the Budget process;**
- 4) **AND THAT staff be authorized to establish a not-for-profit corporation to operate Nineteen on the Park in accordance with the principles identified in this report, to the satisfaction of the CAO and Town Solicitor;**
- 5) **AND THAT the Mayor and Clerk be authorized to enter into an agreement with Westbury National and be authorized to sign all documents related to the incorporation process.**

1. PURPOSE:

The purpose of this report is to:

1. Seek Council approval to award the tender for the Presentation Systems for the facility.
2. Provide Council with a construction status update on the renovation/restoration of the municipal building located at 19 Civic Avenue.
3. Seek Council approval for hydro servicing and revisions to the contingency budget for the project.
4. Seek Council's authorization for staff to initiate the process to set-up a not-for-profit corporation for the operation of the Town's arts and entertainment facility.



2. BACKGROUND:

At the December 4, 2007, Council Meeting, Council awarded the contract for the renovation of the municipal building at 19 Civic Avenue to J. J. McGuire General Contractors. In the spring of 2008, construction activity commenced with a projected completion of early January, 2009. The facility is scheduled to open in May, 2009. The Project Implementation Committee (PIC) has been meeting on a monthly basis to monitor construction activity, receive updates on the work of the Start-Up Team and review options for governance/operation of the facility. Staff have also been working with Novita Techne Ltd. in the preparation of the tender for Presentation Systems for the facility.

3. ANALYSIS & OPTIONS:

3.1 Construction Schedule

Construction activity has been progressing well with the building now primarily enclosed and sub-trades working on interior completion. Due to a number of site conditions requiring investigation and remediation, the contractor has forecasted a substantial completion date of late February 2009, which is approximately six weeks later than originally anticipated. However, this completion date still allows for adequate time to prepare the facility for the May 2009 Official Opening.

3.2 Tender Award for Presentation Systems

The Project Budget approved by Council included \$198,500 for Furnishings, Fixtures and Equipment (FF&E). Of this amount, \$150,000 was estimated for the supply and installation of Presentation Systems for the facility including audio, video, lighting, drapery and rigging. Tenders for the Presentation Systems were issued to four (4) companies who were pre-qualified and deemed suitable to complete a project of this nature and scope.

Tenders were received and opened on Wednesday December 10, 2008 with tender results as follows:

<u>Company</u>	<u>Net Tender Price (including GST)</u>
Westbury National	\$209,995.80
Christie Lites	\$244,407.70 *

* The bid from Christie Lites was rejected due to insufficient tender deposit amount.



The tender submission from the low bidder, Westbury National has been reviewed by staff and Novita Techne and has satisfied all requirements of the tender document. The net price of \$199,996 exceeds the estimated allocation within the overall FF&E budget. Novita Techne has advised that this variance is largely due to the impact of the decreasing value of the Canadian dollar in the last few months. Canadian distributors of presentation systems equipment have increased product pricing because of these exchange rate pressures. The Town has the option of leasing all or a portion of the presentation systems equipment to defray the initial capital cost, however, this would add approximately \$80,000 to the annual operating budget.

Staff are recommending that the Town purchase the presentations systems from the FF&E budget and that the remaining FF&E items (building equipment) of approximately \$40,000 be budgeted in 2009 and included in the final project amount.

3.3 North Balcony

The original tender documents included the complete installation of an enclosed walkout balcony from the second floor at the north entrance of the building, overlooking Civic Square. In the cost reduction process undertaken to reduce the original tender price, the balcony was removed from the base price and included as a separate price and it was determined that it could be added to the project at a later date.

A concrete pad and handrail connection fittings have been installed as part of the base contract. The Project Implementation Committee is recommending that the full installation of the balcony be included in the project at this time complete with balustrade, decking and handrail. The price for this feature is \$28,400. The PIC is of the opinion that the balcony is instrumental in connecting the building to Civic Square and associated outdoor activities.

It is recommended that this item and cost be included in the overall cost for the project.

3.4 Construction Contingency

The project budget approved by Council included a construction minimal contingency of \$150,000, which represents approximately 5% of the contract amount of \$2,681,342. The contingency is utilized to fund changes to the construction contract to deal with unforeseen site conditions and design revisions. Normal contingencies for re-construction projects like this would be in the order of 15%.

To-date approximately \$68,000 has been approved in change orders to the contract with further pending items of approximately \$56,000 being reviewed. Therefore, of the \$150,000 construction contingency, an estimated \$124,000 has been forecasted/committed to be spent. Some of the more significant items to-date have been related to:

- Removal of the existing ground floor slab – a number of unexpected concrete slabs were found during demolition under the main floor resulting in additional excavation and removal



- Soil Conditions – additional excavation and removal of existing soil and importing of engineered fill to ensure compaction for ground floor footings and slab
- Unforeseen additional restoration/alteration of interior brick surface
- Additional asbestos found behind wall cavities during demolition
- Additional structural steel and masonry work to south wall of existing building to join new addition
- Increase in architectural and project management fees for scope changes and extended construction schedule

MHPM Project Managers are carefully monitoring and tracking changes to the contract and have been working with the Project Architect (Taylor Hazell) and J. J. McGuire to make alterations where possible to minimize additional costs to the Municipality.

However, MHPM is forecasting that the construction contingency of \$150,000 will not be sufficient to complete the project. An additional \$125,000 (including the balcony and furniture) is anticipated to be added to the project costs. A more complete summary of approved contingency items and associated costs will be provided as the construction schedule nears completion in early 2009.

Staff are proceeding to include these additional costs in the draft 2009 budget and will be allocating funds according to the model approved by Council.

3.5 Other Construction Item – Hydro Site Servicing

The original scope of work as outlined in the tender documents was to modify and reuse the existing hydro service into the municipal building at 19 Civic Avenue. This assessment was based upon discussions between Hydro One and the project engineering consultant, LKM. However, upon further site analysis by Hydro One, it was determined that the reuse of the existing electrical service was not sufficient or compliant and that a new underground 200 amp service was required to properly supply the facility. During the design of Civic Square this year, it was determined that it would be cost effective to also include provisions for electrical site servicing for Civic Square in the site servicing for the building. Therefore, a 400 amp service in an enclosed underground ductbank has been specified at a cost of \$59,800.

It is recommended that this utility installation cost be funded from the Town's Hydro Reserve account as an item separate from the facility construction.



3.6 Governance Model

When Council approved the preferred use of 19 Civic Avenue as a flexible programming space for the arts, cultural and entertainment sectors on June 20, 2006, Council also adopted a 'Board of Management' governance model as the preferred means of operating and programming *Nineteen on the Park!* The subsequent *Nineteen on the Park!* Business Plan completed by Novita in February, 2007, identified the following advantages of an arm's length Board:

- directs focus entirely to the mandate
- allows active participation by community leadership
- allows active participation by key stakeholders (e.g. Main Street Business)
- creates opportunities for broad community collaboration and partnerships
- increases the prospects for capital funding (permitting community fundraising initiatives and grant applications to government and charitable organizations)
- increases scope of activity (all sectors public and private)

The Business Plan further noted that a board of management controlled by the Municipality cannot apply for Ontario Trillium Foundation funding, while an incorporated non-profit organization could. Other sources of charitable and corporate funding also exclude municipal entities.

In accordance with the Novita Business Plan, a Start Up Team was established in May, 2008 to, among other duties:

- Research, evaluate and recommend to Council a governance model and reporting relationship with the Town for the ongoing management of *Nineteen on the Park!*
- Research and review policies that complement the vision for *Nineteen on the Park!* to create a Policies and Procedures Manual for Council adoption
- Develop a plan for the transfer of responsibilities to the subsequent governing body

In its considerations for the development of recommendations for the governance model, the Start Up Team recognized the following considerations:

- The value of the facility and extent of municipal investment;
- The high public visibility of the facility's future operations;
- The complexity and specialization of the facility and its operations;
- The importance of demonstrating accountability for use of public funds;
- The need to address a diversity of community needs and expectations providing access to the widest possible range of users and participants.



The Start Up Team reviewed three forms of governance models as described in Attachment 1 and concurred that Option A – an independent Board of Management of an incorporated not-for-profit is the model to be recommended. It is noted that identifying the specific roles and responsibilities of the Town and the Board at the outset is essential. Consideration needs to be given to the many valid concerns of the Town, while establishing a Board with the capacity and flexibility to operate effectively. It is suggested that a Town staff person be added to the Board profile. The Discussion Paper on Governance Models developed by the Governance Sub-Committee of the Start Up Team (November 24, 2008) provided staff with further information.

Based on the information contained in the Business Plan and the excellent work of the sub-committee of the Start Up Team staff are recommending that the Town establish an independent not-for-profit corporation, such that the letters patent and constitution of the not-for-profit corporation, complemented by legal agreements such as a lease agreement, memorandum of understanding encompass the following principles:

- 1) That a not-for-profit corporation be established under the Corporations Act of Ontario with the following objective to “operate the Nineteen on the Park facility as a multi-faceted arts, culture and entertainment centre, contributing to local cultural development for the benefit of the community of Whitchurch-Stouffville.”;
- 2) An initial Board of five (5) Directors be appointed by Council to serve as the Board and members for the not-for-profit corporation of which two must be the Mayor or his/her designate and the Director of Leisure Services or his/her designate. After two years the Board of Directors could be increased to include seven (7) members with the consent of Council;
- 3) The Board will operate the facility in a sustainable, transparent, publicly accountable and fiscally sound manner maximizing available funding as defined by the terms of its constitution;
- 4) Ownership of the facility is to be retained by the Corporation of the Town of Whitchurch-Stouffville and leased to the Board under terms satisfactory to the CAO and/or Town Solicitor;
- 5) The Town will provide an annual operating grant to cover “basic occupancy costs” (ie: heat, hydro, general maintenance, insurance, etc.) subject to the terms of a memorandum of understanding that details reporting requirements; priority access for Town functions in keeping with industry standards; liaison with Town facilities staff for maintenance and repair services; input and collaboration on capital budgeting and forecasting for long term physical plant maintenance. The Town will also provide administrative and back-up office support (e.g. accounting, information technology, human resources);
- 6) Council will retain the ability to dissolve the Corporation with appropriate notice.



4. FINANCIAL IMPLICATIONS:

Based on the construction of the project to date, staff are recommending an additional \$125,000 to the overall approved project cost bringing the total to \$3.525M. The additional costs for the contingency, balcony and furniture (\$125,000) will be included in the 2009 budget and funded based upon the formula approved by Council.

On the basis that the Hydro Service being recommended services the entire Civic Square and building, this cost of \$59,800 is regarded as a separate item funded by the Hydro Reserve in 2009.

5. ALIGNMENT WITH STRATEGIC PLAN:

The renovation and restoration of the municipal building at 19 Civic Avenue into the Lebovic Arts and Entertainment Centre, Nineteen on the Park, is aligned with the Town's Strategic Plan in the following manner.

- **Balanced Growth and Community Sustainability**
 - Preserve and enhance community character
 - Economic development and job creation
 - Leisure, tourism and cultural development

6. CONCLUSION:

The renovation and restoration of the municipal building at 19 Civic Avenue is well underway with a scheduled opening in May 2009. Staff have identified construction related items for inclusion in the project budget and will be reporting back to Council in February 2009 with a final consolidation of the project budget and funding sources.

For further information, regarding this report, please contact Tom Graham, Director of Leisure Services at (905)640-1910, Ext. 289, or Dorie Billich, Manager of Culture and Museum Services, at Ext. 294.